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101ST CONGRESS
1st Session

SENATE

REPORT
101-177

NIOBRARA RIVER SCENIC RIVER DESIGNATION ACT OF 1989

OCTOBER 31 (legislative day, SEPTEMBER 18), 1989.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 280]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 280) to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Niobrara River Scenic River Designation Act of 1989".

SEC. 2. DESIGNATION OF RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), as amended, is further amended by adding at the end thereof the following:

"(111) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek to the bridge crossing the Niobrara on State Highway 137; both segments to be administered by the Secretary of the Interior, in consultation with the Niobrara Scenic River Advisory Council established pursuant to subparagraph (F), as scenic rivers.

"(B) After consultation with the Niobrara Scenic River Advisory Council, State and local governments, and with the interested public, and within two years after the date of enactment of this Act, the Secretary shall prepare a comprehensive management plan for the designated river segments pursuant to subsection (d) of this Act. In addition to those values specified in subsection (d), the plan shall provide for the protection of the pastoral landscape, and the established farming and ranching lifestyles.

S313-36.

"(C)(i) The authority of the Secretary to acquire lands in fee for purposes of this paragraph shall be limited to acquisition by donation or purchase with the consent of the owner. The Secretary may acquire easements for purposes of this paragraph in accordance with section 6 of this Act except that easements acquired by condemnation shall not affect more than 5 percent of the privately owned land within the designated river corridors and easements may be acquired by condemnation only if—

"(1) activities are occurring or threatening to occur which pose a significant threat to the values for which the river was protected or;

"(2) the easements to be acquired are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or selected segments thereof.

"(ii) Notwithstanding any provision of this paragraph, easements acquired for providing river access to the public may only be acquired with the consent of the owner when the interest in land to be acquired is—

"(1) within one-quarter mile of a residence and adjacent to the Berry Bridge, Allen Bridge, Brewer Bridge, Rockford Bridge, Norden Bridge, Highway 183 Bridge, Riverview Bridge, Carns Bridge, or Highway 137 Bridge; or

"(2) located between the Borman Bridge and the Cornell Dam.

Any such easement shall provide for day use only.

"(iii) Within the river corridors designated by this paragraph, the Secretary shall not acquire subsurface rights, including but not limited to oil and gas rights, without the consent of the owner. Exploration for and the development of oil and gas shall be permitted pursuant to section 9 of this Act and applicable law.

"(D) The Secretary is authorized to enter into cooperative agreements with local units of government for maintenance of existing access and other roads within the designated river corridors.

"(E) The Secretary is further authorized to contribute to the costs of instituting conservation and streambank erosion control practices on private land within the river corridors which will enhance the scenic or natural values of the river segments or contribute to the protection of established bridges, and resources which are of historical or archaeological significance within the river corridors.

"(F)(i) In order to carry out the provisions of this paragraph, the Secretary shall establish the Niobrara Scenic River Advisory Council (Advisory Council) to consist of eleven members appointed by the Secretary—

"(1) three of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville Bridge;

"(2) three of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

"(3) one of whom shall be a canoe outfitter who operates within the river corridors;

"(4) one of whom shall be chosen from a list submitted by the Governor of Nebraska;

"(5) two of whom shall be representatives of the affected county governments or natural resources districts; and

"(6) one of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

"At least five of the six landowners appointed to the Advisory Council pursuant to phrases (1) and (2) shall be residents of Brown, Cherry, Keya Paha, or Rock Counties.

"(ii) The term of appointment to the Advisory Council shall be five years and no individual shall serve more than two terms.

"(iii) The Secretary shall consult with the Advisory Council in the development and review of the management plan prepared pursuant to subparagraph (B) and in the formulation and review of subsequent plans including annual operation and maintenance plans.

"(iv) The Secretary shall designate one of the members of the Advisory Council, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

"(G)(i) Except as provided by subparagraph (C), nothing in this Act shall prohibit current or future uses of privately owned land within the river corridors, including

agricultural and livestock operations, timber management practices, operation of private campgrounds, hunting, fishing, camping, accessing private property, construction of facilities or structures, and repair or replacement of residences, farmsteads, agricultural or recreational facilities, bridges, or fish hatcheries.

"(ii) Nothing in this Act shall prohibit the continued operation and maintenance of the Cornell Dam.

"(H) There are hereby authorized to be appropriated $3,500,000 for acquisition of lands and interests therein, and $1,000,000 for purposes authorized by subparagraphs (D), (E), and (F). Funds authorized pursuant to this paragraph shall be available only to the extent and in such amounts as are provided in advance in Appropriation Acts.".

SEC. 3. STUDY OF RIVER SEGMENT.

Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), as amended, is further amended by adding the following new paragraph:

"(106) NIOBRARA, NEBRASKA: The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek. The study authorized in this paragraph shall include an analysis of alternative methods of protecting the values and natural resources of the river. The study authorized in this paragraph shall be completed not later than one year from the date of enactment of this paragraph.".

PURPOSE OF THE MEASURE

The purpose of S. 280 is to amend the Wild and Scenic Rivers Act to include approximately 70 miles of the Niobrara River as a component of the National Wild and Scenic Rivers System, and to study an additional 6 miles for possible inclusion in the System.

BACKGROUND AND NEED

The Niobrara enters the northern portion of the State of Nebraska as a small, high plains stream. As the river broadens downstream, it runs through the 2,000-acre Agate Fossil Beds National Monument, which contains fossils which were formed 25 to 13 million years B.C. For much of its 350-mile length, the Niobrara flows in association with the Sandhills, one of the most distinctive native grassland regions in the country.

While many rivers in the Great Plains have been altered by impoundments or channelization, the lower Niobrara retains much of its original quality. It is rich in ecological diversity, supporting an abundance of wildlife, including bald eagles, white-tailed deer and whooping cranes. Canoeing and fishing are popular recreational activities along the river, and farms and ranches are prevalent within the Niobrara valley.

S. 280 will help preserve a portion of this pastoral stream in its present condition by including it in the Wild and Scenic Rivers System.

LEGISLATIVE HISTORY

S. 280 was introduced by Senators Exon and Kerrey on January 31, 1989. Senator Exon introduced similar legislation in 1985. The Subcommittee on Public Lands, National Parks and Forests conducted a hearing on April 5, 1989.

At the business meeting on October 4, 1989, the Senate Committee on Energy and Natural Resources ordered S. 280, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on October 4, 1989, by unanimous vote of a quorum present, recommends that the Senate pass S. 280 if amended, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Wirth*	
Mr. Conrad	
Mr. Heflin	
Mr. Rockefeller*	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici*	
Mr. Wallop*	
Mr. Murkowski	
Mr. Nickles*	
Mr. Burns*	
Mr. Garn*	
Mr. McConnell	

* Indicates voted by proxy.

Committee Amendments

During the consideration of S. 280, the Committee adopted an amendment in the nature of a substitute. The amendment includes numerous technical and conforming changes which make the bill more consistent with the Wild and Scenic Rivers Act. The substitute also deletes a provision in the original bill that would have permitted the construction of a diversion dam and pumping station within the wild and scenic river corridor. Instead, the substitute provides for a study of the 6-mile segment of the river on which the dam would have been constructed. A more detailed description of the substitute can be found in the "Section-by-Section Analysis" portion of this report.

Section-by-Section Analysis

Section 1 provides a short title for the legislation—the "Niobrara River Scenic River Designation Act of 1989".

Section 2 amends the Wild and Scenic Rivers Act by adding a new paragraph, (111), which designates a 40-mile segment and a 30-mile segment of the Niobrara River as scenic rivers within the Wild and Scenic Rivers System. These segments are to be administered by the Secretary of the Interior, in consultation with the Niobrara Scenic River Advisory Council (the "Advisory Council").

Subparagraph (B) provides that after consultation with the Advisory Council, State and local governments, and interested public, the Secretary is directed to prepare a comprehensive management plan for the designated river segments.

Subparagraph (C) limits the Secretary's authority to acquire lands in fee to acquisition by donation or purchase with the consent of the owner. The Secretary may acquire easements in accordance with the provisions of section 6 of the Wild and Scenic Rivers Act. However, the Secretary's authority to condemn land for easements is limited to 5 percent of the privately owned land within the designated river corridors. Furthermore, the Secretary may use condemnation for easements only if: (1) activities are occurring or threatening to occur which pose a threat to the values of the river; or (2) if public access to the river is needed.

Furthermore, easements obtained for the purpose of providing river access may only be acquired with the consent of the owner when the land to be acquired is: (1) within one-quarter of a residence and adjacent to certain bridges, specified in the legislation; or are (2) in the area located between the Borman Bridge and the Cornell Dam.

Subparagraph (C) provides that the Secretary may not acquire subsurface rights within the river corridor without the consent of the owner. Exploration for the development of oil and gas is to be permitted pursuant to the applicable provisions of the Wild and Scenic Rivers Act and other law.

Subparagraphs (D) and (E) authorize the Secretary to enter into cooperative agreements with units of local government for maintenance of existing roads within the designated river corridors and to contribute to the costs of erosion control practices on private land under certain circumstances.

Subparagraph (F) establishes the Niobrara Scenic River Advisory Council, and provides for the membership and duties of the Council.

Subparagraph (G) provides that, except for the provisions in subparagraph (C) permitting the use of condemnation for easements, nothing in the Wild and Scenic Rivers Act shall prohibit current or future uses of private land within the river corridors, including agricultural and livestock operations, timber management practices, private campgrounds, hunting, fishing, camping, access to private property, construction of facilities or structures, and repair or replacement of various facilities.

Subparagraph (H) authorizes the appropriation of $3,500,000 for acquisition of lands and $1,000,000 for the cooperative agreements, cost sharing, and the Advisory Council authorized in subparagraphs (D), (E), and (F) respectively.

Section 3 amends section 5(a) of the Wild and Scenic Rivers Act to include a 6-mile segment of the Niobrara to be studied for possible inclusion in the Wild and Scenic Rivers System.

The Committee believes that the Secretary of the Interior acting through the Director of the National Park Service, and in consultation with the Commissioner of the Bureau of Reclamation, should, as a part of the study, identify and evaluate alternatives to the proposed Springview Diversion project which would meet the objectives of the project without adversely affecting the river.

Cost and Budgetary Considerations

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 26, 1989.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 280, the Niobrara River Scenic River Designation Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer,
Director.

Congressional Budget Office Cost Estimate

1. Bill number: S. 280.
2. Bill title: Niobrara River Scenic River Designation Act.
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on October 4, 1989.
4. Bill purpose: Section 2 of S. 280 would add 70 miles of the Niobrara River to the wild and scenic river system. The Secretary of the Interior would be required to prepare a comprehensive management plan within two years of the bill's enactment and to acquire certain lands and easements within the river corridor. The bill would place certain restrictions on land and easement acquisition.

This section would also authorize the Secretary to enter into cooperative agreements with local governments for the maintenance of certain access roads. The Secretary would be authorized to contribute funds for certain conservation and erosion control measures along the Niobrara River, and would be directed to establish a Niobrara Scenic River Advisory Council. The Council would provide advice on the development and review of management plans.

The bill authorizes the appropriation of $3.5 million for land acquisition and easements and $1 million for maintenance of access roads, for conservation and erosion control activities and for the establishment of the Advisory Council.

Finally, S. 280 would require that a six-mile segment of the Niobrara River be studied for potential inclusion in the wild and scenic river system.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Estimated authorization level	0.1	0.1	4.9		
Estimated outlays	.1	.1	.4	0.3	0.3

The costs of this bill fall within budget function 300.

Basis of estimate: In preparing this estimate, we assumed that S. 280 would be enacted early in fiscal year 1990 and that the full amounts authorized would be appropriated as specified in the bill.

Based on information provided by the National Park Service (NPS), the estimate includes about $300,000 over the fiscal years 1990–1992 for the management plan required in section 2 and the study authorized in section 3. Information from the NPS indicates that funds for land acquisition, easements, and for other forms of Federal assistance as specified in the bill would not be needed until after management plans are completed, probably in 1992. Outlays were estimated based on information from the NPS on the likely timing of land acquisition and on historical rates for similar programs.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Theresa Gullo.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 280. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 280, as reported.

Executive Communications

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 280 is set forth below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, DC, April 25, 1989.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This responds to your request for our views on S. 280, a bill "To amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System." This bill would designate 76 miles of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

We recommend that the bill be amended to follow the practice established under the Wild and Scenic Rivers Act and provide for a study of this river segment to determine its suitability for addition

to the National Wild and Scenic Rivers System. If the bill is amended to provide for such a study under section 5(a) of the Wild and Scenic Rivers Act, we would recommend the enactment of S. 280. However, we cannot support the bill in its present form.

The Niobrara River is an outstanding river resource, and a segment of the river was considered for immediate designation as early as 1965 when the Wild and Scenic River legislation was being formulated and debated in Congress. At that time, the segment being considered extended from Nebraska Highway 87 south of Hay Springs to U.S. Highway 83 at Valentine. This segment of river is immediately upstream of the segment currently under consideration.

The Niobrara is one of the 7 "Heartland" Rivers featured in the National Geographic Society's book "America's Wild and Scenic Rivers". In the Nationwide Rivers Inventory published by the National Park Service in 1982, a segment from Antelope Creek near Highway 87 downstream to the confluence with the Keya Paya was identified as having outstanding scenic, recreational, geologic, fish, wildlife, and cultural values. It encompasses all of the 76 miles in S. 280.

However, whereas the river upstream of Valentine was investigated in depth in the mid-1960's, the segment in this bill was given a more cursory investigation during the Nationwide Rivers Inventory, and we have not developed a conceptual plan for administering the river. Ordinarily, this occurs during a formal study process conducted pursuant to section 5(a) of the Wild and Scenic Rivers Act.

Determination of the designated river segment, its classification, the river corridor boundaries, and the managing agency without a prior detailed study may result in the failure to consider desirable management or boundary options as well as the inclusion of provisions that are inappropriate or unnecessary. A section 5 study could identify and evaluate alternatives in the following areas:

1. Management Options—The study would identify several options for managing the Niobrara, including Federal or State management as a component of the Wild and Scenic Rivers System. Local management options would also be fully considered.

2. Eligibility—The study would establish the eligibility of the Niobrara River within the limits set by a study bill. The 1982 Nationwide Rivers Inventory identifies 253 miles of the Niobrara River as having the potential for inclusion in the National Wild and Scenic Rivers System. The rationale for selection of the 76 miles covered in S. 280 is not known. A study could assess the eligibility of all or parts of the 253 miles listed in the inventory.

3. Boundary Options—The study would also recommend general boundaries related to the nationally significant resources or viewshed. As written, the bill sets a boundary about one-half mile from the stream bank. When this boundary is combined with the restrictions on development in section 2(e), it may be unduly restrictive of landowners outside of the viewshed of the river.

4. Classification Options—The study would evaluate the suitability of various river segments for designation as wild, scenic, and/or recreational components of the National Wild and Scenic Rivers System.

A study could also provide public information benefits for which there is no opportunity with immediate designation. Providing the opportunity to explain to the public what the National Wild and Scenic Rivers System is might improve the acceptance of Federal or State management in the future. S. 280 also includes a variety of specific provisions which we would prefer to see developed through the management planning process required by section 3(d)(1) of the Wild and Scenic Rivers Act. These include:

1. Location of public access sites—The bill would legislate the location of public access sites, all of which are at bridge crossings. We would prefer to identify necessary access sites through a planning process which would consider visitor safety, resource factors (e.g., soil suitability for development, presence of rare plants and animals, etc.), the existing road system, the needs of canoe livery operators and recreational users, and similar considerations.

2. Existing land use practices—The bill would allow continued agricultural, livestock, timber management, and commercial camping "land use practices" without regard to their effect on the resources. The resource qualities requiring protection should be spelled out in a management plan. Such a plan would also identify the best means to provide for continuation of these activities so as to avoid or minimize adverse resource impacts.

3. Oil and gas exploration and extraction—These activities would be specifically allowed in the designated corridor. Again, a management plan would set out how to eliminate or lessen unwanted impacts to resources while still permitting oil and gas activities.

4. Land acquistion—Land acquisition would be limited to purchase of easements from willing sellers, except that easements may be acquired by condemnation, totaling no more than five percent of the designated corridor, when activities are occurring or threatened to occur which pose a substantial threat to the integrity of the river and the values for which it was designated. We note that these limits are more stringent than the limitation on Federal acquisition of fee title—already enacted in the Wild and Scenic Rivers Act—of no more than 100 acres per mile of river. We are not convinced of the need for a more stringent limitation in this instance, but would review the matter as part of a suitability study under section 5(a) of the Act.

Section 2(b) of the bill calls for preparation of a management plan within 1 year from the date of enactment and after consultation with the "Niobrara Scenic River Advisory Council" to be appointed by the Secretary. Based upon experience with similar requirements in other park-related legislation, it frequently takes a year or more to appoint an advisory council. It would thus be difficult to coordinate the management plan with the council within the required time. Also based on earlier experience, it would take more than 1 year to complete the study, the environmental reviews, and obtain central office approvals. Therefore, the 1-year planning timeframe is unreasonable and should be lengthened to 2 complete fiscal years after the appointment of the council. Scheduling the study by fiscal years is necessary to assure availability of funds for the entire study period.

In summary, the Niobrara is a valuable river resource worthy of being considered as a potential component of the National Wild

and Scenic Rivers System. We recommend that the normal suitability study process set forth in the Wild and Scenic Rivers Act be followed.

Under that process, a river segment is designated for study and a report is prepared by the Secretary and submitted to the President, usually within 2 or 3 complete fiscal years. The President, then makes his recommendation to Congress with respect to designation of the river as a component of the National Wild and Scenic Rivers System. Such a study would cost approximately $200,000.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BECKY NORTON DUNLOP,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 280, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

AN ACT To provide a National Wild and Scenic Rivers System, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Wild and Scenic Rivers Act".

* * * * * * *

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

* * * * * * *

(111) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek to the bridge crossing the Niobrara on State Highway 137; both segments to be administered by the Secretary of the Interior, in consultation with the Niobrara Scenic River Advisory Council established pursuant to subparagraph (F), as scenic rivers.

(B) After consultation with the Niobrara Scenic River Advisory Council, State and local governments, and with the interested public, and within two years after the date of enactment of this Act, the Secretary shall prepare a comprehensive management plan for the designated river segments pursuant to subsection (d) of this Act. In addition to those values specified in subsection (d), the plan shall provide for the protection of the pastoral landscape, and the established farming and ranching lifestyles.

(C)(i) The authority of the Secretary to acquire lands in fee for purposes of this paragraph shall be limited to acquisition by donation or purchase with the consent of the owner. The Secretary may acquire easements for purposes of this paragraph in accordance with section 6 of this Act except that easements acquired by condemnation shall not affect more than 5 percent of the privately owned land within the designated rivers corridors and easements may be acquired by condemnation only if—

(1) activities are occurring or threatening to occur which pose a significant threat to the values for which the river was protected or;

(2) the easements to be acquired are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or selected segments thereof.

(ii) Notwithstanding any provision of this paragraph, easements acquired for providing river access to the public may only be acquired with the consent of the owner when the interest in land to be acquired is—

(1) within one-quarter mile of a residence and adjacent to the Berry Bridge, Allen Bridge, Brewer Bridge, Rockford Bridge, Norden Bridge, Highway 183 Bridge, Riverview Bridge, Carns Bridge, or Highway 137 Bridge; or

(2) located between the Borman Bridge and the Cornell Dam. Any such easement shall provide for day use only.

(iii) Within the river corridors designated by this paragraph, the Secretary shall not acquire subsurface rights, including but not limited to oil and gas rights, without the consent of the owner. Exploration for and the development of oil and gas shall be permitted pursuant to section 9 of this Act and applicable law.

(D) The Secretary is authorized to enter into cooperative agreements with local units of government for maintenance of existing access and other roads within the designated river corridors.

(E) The Secretary is further authorized to contribute to the costs of instituting conservation and streambank erosion control practices on private land within the river corridors which will enhance the scenic or natural values of the river segments or contribute to the protection of established bridges, and resources which are of historical or archaeological significance within the river corridors.

(F)(i) In order to carry out the provisions of this paragraph, the Secretary shall establish the Niobrara Scenic River Advisory Council (Advisory Council) to consist of eleven members appointed by the Secretary—

(1) three of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville Bridge;

(2) three of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the Bridge on highway 137;

(3) one of whom shall be a canoe outfitter who operates within the river corridors;

(4) one of whom shall be chosen from a list submitted by the Governor of Nebraska;

(5) two of whom shall be representatives of the affected county governments of natural resources districts; and

(6) one of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

At least five of the six landowners appointed to the Advisory Council pursuant to phrases (1) or (2) shall be residents of Brown, Cherry, Keya Paha, or Rock Counties.

(ii) The term of appointment to the Advisory Council shall be five years and no individual shall serve more than two terms.

(iii) The Secretary shall consult with the Advisory Council in the development and review of the management plan prepared pursuant to subparagraph (B) and in the formulation and review of subsequent plans including annual operation and maintenance plans.

(iv) The Secretary shall designate one of the members of the Advisory Council, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

(G)(i) Except as provided by subparagraph (C), nothing in this Act shall prohibit current or future uses of privately owned land within the river corridors, including agricultural and livestock operations, timber management practices, operation of private campgrounds, hunting, fishing, camping, accessing private property, construction of facilities or structures, and repair or replacement of residences, farmsteads, agricutlural or recreational facilities, bridges, or fish hatcheries.

(ii) Nothing in this Act shall prohibit the continued operation and maintenance of the Cornell Dam.

(H) There are hereby authorized to be appropriated $3,500,000 for acquisition of lands and interests therein, and $1,000,000 for purposes authorized by subparagraphs (D), (E), and (F). Funds authorized pursuant to this paragraph shall be available only to the extent and in such amounts as are provided in advance in Appropriation Acts.

* * * * * * *

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

* * * * * * *

(106) Niobrara, Nebraska: The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek. The study authorized in this paragraph shall include an analysis of alternative methods of protecting the values and natural resources of the river. The study authorized in this paragraph shall be completed not later than one year from the date of enactment of this paragraph.

○